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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,655

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Michael A. Friedman

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EXAMINER

TERMANINI, SAMIR

ART UNIT

PAPER NUMBER

2178

MAIL DATE

DELIVERY MODE

07/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/730,655	FRIEDMAN ET AL.	
	Examiner	Art Unit	
	Samir Termanini	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/23/07</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

BACKGROUND

1. This FINAL Office Action is responsive to the following communications:
Amendment filed on 4/24/07 .
2. Claims 1–14 are pending in this case. Applicant amended claims 1–14.
Claim 1 is independent in form.
3. Applicant amended Claims 1–14 in response to the 35 U.S.C. §101 Rejections cited by the Examiner in the previous Office Action (dated 1/24/2007) with regard to statutory subject matter. The Rejection is withdrawn in view of the amendment.
4. Applicant has added previously unclaimed subject matter to all independent claims and have thereby rendered moot the 35 U.S.C. §102(e) Rejections cited by the Examiner in the previous Office Action (dated 1/24/2007) in view of *Humpleman et al.* However, all arguments applicable to any new Rejections using the same reference, made in this office action, were fully considered but not persuasive. The reasons are set forth hereunder.

PRIORITY

5. This application appears to be a division of Application Serial No. 09/775,033, filed on February 1, 2001. The first page of Applicant's 12/8/2003

Transmittal letter reads: "Transmitted herewith for filing, please find: A Divisional Application under 37 CFR § 1.53(b)." Applicant's 12/8/2003 Oath refers to Application Serial No. 09/775,033, filed on February 1, 2001.

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. However, Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 121 as follows:

A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of

the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing

an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

INFORMATION DISCLOSURE STATEMENT

6. The information disclosure statement (IDS) submitted on 4/23/07 was filed after the mailing date of the Non-Final Office Action on 1/24/2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

CLAIM REJECTIONS - 35 U.S.C. §102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 1-14** rejected under 35 U.S.C. 102(e) as being anticipated by *Humpleman et al.* (US Pat. No. 6,546,419).

As to independent **claim 1**, *Humpleman et al.* teach a computer-readable medium encoded with a data structure ("...the client device 12 can include a renderer

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24 for displaying a GUI 18 using a GCO 22 stored in the client device 12 or transferred to the client device 12 over the network from a desired server device 14..." col. 5, lines 33-40) (emphasis added) formatted according to extensible markup language (XML) ("The comprehensive definition or data base utilizing XML" col. 12, lines 40-42) including data representative of a canonical UI description (INTERFACE-A.XML "the application interface description," col. 14, lines 50-55) of a device to be controlled for use by a universal console ("The document INTERFACE-A.XML describes the objects and methods supported by the Service A according to the document type definition INTERFACE.DTD for Service A." col. 12, lines 45-55) wherein said UI description comprises: (1) action-commands to which said device responds ("user command..." See Claim 36) , and (2) descriptors for display on said universal console, said descriptors providing a prompt for a user to select at least one of said action-commands ("...a client device capable of displaying user interface data, the client device including user interface controller means for displaying said user interface of the first server device on the client device to accept input from a user, and for sending control and command data to the first server device based on the user input..." See Claim 36).

As to dependent **claims 2 and 3**, *Humpleman et al.* teach a data structure according to claim 1, wherein said UI description includes a representation associated with a parameter for selecting ("selection information on the user interface" col. 3, lines 10-15) a subset of a set ("to include selection information for the second home device if at least a portion of the first and second capabilities data match" col. , lines 10-15).

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As to dependent **claim 3**, *Humpleman et al.* further teach a parameter for selecting from a set ("parameters" col. , lines 5-10; see also code in col. 19).

As to dependent **claim 4**, *Humpleman et al.* further teach that the UI description includes a representation associated with a parameter for Off/On (e.g. "to turn...system off " col. 22, lines 40-50)

As to dependent **claim 5**, *Humpleman et al.* further teach a parameter for selecting an integer n in a range (e.g. "parameter value="4>channel</parameter>" col. 19, lines 15-35) .

As to dependent **claim 6**, *Humpleman et al.* further teach A data structure according to claim 1, wherein said UI description includes a representation associated with a parameter for selecting a real number ("<parameter value="19990401T19:05:35">startTime</parameter> " col. 19, lines 25-38).

As to dependent **claim 7**, *Humpleman et al.* further teach that the description includes a representation associated with a parameter type for an arbitrary string (e.g. "<name>startTime</name> " col. 19, lines 1-5).

As to dependent **claim 8**, *Humpleman et al.* further teach that the arbitrary string s is to be selected from a suggestion set ("session manager 36 disables the selection icons Serv3 and Serv 4 for server devices SERVER3 and SERVER4, respectively. The user can then click on the icon Sew2 to command and control the server device SERVER2." col. 8, lines 55-65).

As to dependent **claim 9**, *Humpleman et al.* further teach that the description includes a representation associated with a parameter type for the modification of a given first string *s*, resulting in a second string *s'* ("A group of such message items are assembled to create a complete [second] command string." col. 11, lines 10-15).

As to dependent **claim 10**, *Humpleman et al.* further teach that the description includes a representation associated with a parameter type for ordering the elements of set *A* into *A'* ("Appendix 4 shows examples for changing from CAL command language to XML RPC format." col. 24, lines 60-63).

As to dependent **claim 11**, *Humpleman et al.* further teach that the UI description includes a representation associated with a parameter type for pairing set *A* elements with set *B* elements ("if at least a portion of the first and second capabilities data match, whereby the first and second home devices are compatible... And, the structured format can include the XML format " col. 3, lines 10-18).

As to dependent **claim 12**, *Humpleman et al.* further teach that the description includes a representation associated with a group construct that contains at least one of commands and subgroups ("For example, the subset can be selected to provide global or restricted use of all available services on a home network." col. , lines 28-30).

As to dependent **claim 13**, *Humpleman et al.* further teach that the UI description includes a representation associated with a command construct that specifies at least one action to send to the controlled element that will carry out the

action-command (e.g. "<object> DVCRI.record </object> <method> oneTouchRecod
</method> " col. 19, lines 25-38).

As to dependent **claim 14**, *Humpleman et al.* further teach that the UI description includes a description of the parameters associated with the at least one action (e.g. "value="19990401T19:05: 35"> startTime </ parameter> <parameter value="2:00:00"> recordTime </ parameter>"col. 19, lines 25-38).

RESPONSE TO ARGUMENTS

9. Applicant arguments, see p. 5 of 7, filed 4/24/2007, with respect to the Rejections cited by the Examiner in the previous Office Action (dated 1/24/2007), under 35 U.S.C. §101 regarding "...a computer-readable medium encoded with a data structure..." have been fully considered and are persuasive. Accordingly, the Rejections have been withdrawn.

10. Applicant arguments, see p. 6 of 7, filed 4/24/2007, with respect to the Rejections cited by the Examiner in the previous Office Action (dated 1/24/2007), under 35 U.S.C. §102(e) have been fully considered but are not persuasive.

Applicant argues: "Applicants respectfully submit that Humpleman does not teach or suggest such a data structure."

However, *Humpleman* teaches:

information in the structured format for identifying the capabilities of the second home device; comparing the first and second capabilities data of the first and second home devices, respectively; selecting the second home device from the user interface displayed on the client device; and sending control and command

data from the client device to the first and second home devices to cause the first and second home devices to communicate with each other to perform the service.

See Abstract. Emphasis added.

Applicant argues: "However, after user selection these devices communicate with one another to perform a given service (col. 3 11.7-9). Humpleman does not teach a data structure comprising descriptors for display on a universal console, where the descriptors prompt a user to select an action-command to which a device responds."

In response to: "Humpleman does not teach a data structure comprising descriptors for display on a universal console....," please find that *Humpleman* does teach: "...displaying the selection information on a user interface displayed on the client device..." (Abstract)

In response to: "...where the descriptors prompt a user to select an action-command to which a device responds." please find that Humpleman does teach: "...sending control and command data from the client device to the first and second home devices to cause the first and second home devices to communicate with each other to perform the service." (Abstract).

CONCLUSION

11. All prior art made of record in this Office Action or as cited on form PTO-892 notwithstanding being relied upon, is considered pertinent to applicant's disclosure. Therefore, Applicant is required under 37 CFR §1.111(c) to consider these references fully when responding to this Office Action.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samir Termanini at telephone number is (571) 270-1047. The Examiner can normally be reached from 9 A.M. to 6 P.M., Monday through Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

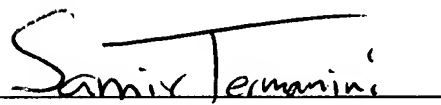
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STEPHEN HONG
SUPERVISORY PATENT EXAMINER



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